

REMARKS

The following remarks are responsive to the Non-final Office Action of February 7, 2008, and the telephone interview conducted with the Examiner on October 29, 2008.

Applicants thank the Examiner for his time and efforts in this interview.

At the time of the Office Action, claims 1 and 3–19 were pending.

- Claims 1, 3–5, and 12–16 were rejected under 35 U.S.C. §103(a) as obvious over Gong et al. (U.S. Patent No. 6,324,574) and Kandala, et al. (U.S. Patent Publication No. 2002/0141376); and
- Claims 6–11 and 17–19 were rejected under 35 U.S.C. §103(a) as obvious over Gong et al. (U.S. Patent No. 6,324,574), Kandala (U.S. Patent Publication No. 2002/0141376), and Mi, et al.

POWER OF ATTORNEY

1. Applicants request that the proper mailing address be used.

Applicants filed a Revocation and New Power of Attorney on June 6, 2008. However, the mailing address indicated on the front of the Office Action (mailed August 4, 2008) still indicated the prior firm handling the application.

Applicants request that the appropriate databases be updated so that future correspondence from the U.S. Patent Office will list the correct address.

35 U.S.C. §103(a) OBVIOUSNESS OF CLAIMS 1, 3–5, AND 12–16 OVER GONG AND KANDALA

In the Office Action, on pp. 2–3, the Examiner combined Gong and Kandala and asserted that these references obviated claim 1.

Applicants note that the heading for this rejection referenced Lakhtdir, et al., and not Kandala. However, it appears clear that this reference in the heading was in error, since the body of the argument refers to Kandala. Therefore, Applicants are responding based on this presumption.

2. Gong does not provide a teaching that the applications belonging to a second family (applets, Fig. 1, #24) have a priori a lower degree of confidence than the first family (web browser, Fig. 1, #22).

In the Office Action, on p. 3, the Examiner summarized the teaching of Gong as follows:

Regarding claim 1, Gong teach[es] a method of communication between a first unit (figure 1, #14) and a second unit (figure 1, #10) via a telecommunications network, in which the first unit comprises applications (figure 1 # 21) belonging respectively to a first family (figure 1, #22) and a second family (figure 1, #24) having a priori a lower degree of confidence than the first family;

Thus, the Examiner has equated an application belonging to a first family as the web browser (22), and the application belonging to the second family as the applet (24), shown in Fig. 1 of Gong. However, the Examiner's statement inferring that Gong teaches that the applet has a priori a lower degree of confidence than the web browser is conclusory in nature, and nowhere can a teaching related to the trustworthiness of the applet relative to the web browser be found.

3. Gong does not provide a teaching of a control layer included in a network access unit that examines and forces a request originating from an application to include a mark associated with an application family, nor anything related to performing operations for checking the presence of a mark and introducing, if necessary, such a mark.

Gong describes an ISP server that includes a relay server for requests originating from unsigned java applets, so as to bypass restrictions applying to unsigned applets. The ISP server determines (step 56) whether an applet originating a request has been signed. If the applet is unsigned, a communication link is established between the relay server and a remote server. But Gong is silent and contains no teaching as to how the determination step 56 is performed.

As previously argued, Gong fails to describe or suggest the feature of a control layer included in a network access unit that examines and forces a request originating from an application to include a mark associated with an application family, nor anything related to

performing operations for checking the presence of a mark and introducing, if necessary, such a mark. These features of the present application are provided to guarantee of the reliable/not reliable origin of a request (see paragraph [0024] of the present application, as published).

Gong is not concerned with having a determination of whether the applet has been signed that is safe and certain. Indeed, if the server, further to the receipt of a request issued by a signed applet, mistakenly determines, at step 56, that this applet is unsigned, it does not matter. A communication link with the target unit is established anyway, via the relay server. Gong is directed to getting around network restrictions and at giving the same network functions to signed applets and unsigned applets.

In the Office Action, on p. 3, the Examiner acknowledges that Gong does not teach:

[N]etwork access resources enabling the applications of the first and second family to communicate through the telecommunications network, the network access resources including a control layer, the method comprising: generating at least one request originating from an application of the second family, for transmission over the network to the second unit and processing said request in the control layer to force the request as transmitted over the network to include a mark associated with the second family of applications.

However, the Examiner then provides Kandala as providing the missing elements with respect to claim 1. The Examiner states:

However Kandala teach network access resources enabling the applications of the first and second family to communicate through the telecommunications network, the network access resources including a control layer, the method comprising: generating at least one request originating from an application of the second family, for transmission over the network to the second unit and processing said request in the control layer to force the request as transmitted over the network to include a mark associated with the second family of applications (paragraph 14, 21, 31, 41, see figure 1).

Applicants respectfully disagree with this characterization of the teaching of Kandala. Kandala relates to the field of communication through wireless networks. Reservation requests for reserving resources, such as bandwidth and memory are emitted to establish a communication scheme. In order to avoid conflicts between several reservation requests, a

station generates a tag that includes a priority of the data that is to be transmitted.

Kandala fails to describe requests originating from an application of a first or second family, these families having a different degree of confidence. Further, Kandala describes a marking associated with the priority of the data, not with the degree of confidence of the application from which the request originate. Kandala teaches to determine the priority based on QoS considerations (see paragraphs [0042], [0067], [0087] and [0099]), and furthermore, deals with the overall concern of forming networks on the fly between devices (Abstract).

Additionally, even if *arguendo* Kandala's priority-based "tag" is being read on the claimed mark, it is clear from Kandala that the "tag" is added in the network layer L3, and not in the control layer L1 (see [0041], indicating that L1 is a physical layer and is for controlling the medium, Figure 2).

Neither Gong nor Kandala describes the feature of marking the requests originating from an application of a determined family associated with a certain degree of confidence with a mark associated with this application family.

At the time the invention was made, the skilled person would not have combined the teachings of Gong and Kandala, since this latter document does not deal with the problem of the degree of confidence of the applications, and Gong is not interested by having a determination step 56 that is certain.

The Examiner has provided, as the motivation to combine, that:

it would have been obvious to one of ordinary skills in the art at the time of invention to modify the method of Gong to include a control layer as taught by Kandala in order to grant or deny the request, thereby improving more customer service.

However, "improving more customer service" is not what would be achieved by the addition of Kandala's teaching related to the control layer and inclusion of priority data into the teaching of Gong. Gong would not use the priority-based marking to determine whether or not to grant or deny any form of request, since these are two completely different high-level communications issues to deal with—the first (priority) is speed, and the second is security. Therefore, Applicants assert that the Examiner's motivation to combine is not proper.

For these reasons, Applicants respectfully request that the Examiner withdraw this rejection from independent claim 1, independent claims 14 and 15, which contain similar limitations, and the remaining dependent claims that depend from claim 1, by virtue of their dependence. Claims 1, 3–5, and 12–16 are inventive in view of Gong and Kandala, whether taken alone or in combination.

35 U.S.C. §103(a) OBVIOUSNESS OF CLAIMS 6-11, 17-19 OVER GONG, KANDALA, AND MI

In the Office Action, on pp. 8–9, the Examiner rejected claim 6 over the combined teachings of Gong, Kandala, and Mi. With respect to the teaching of Mi, the Examiner stated:

However Mi teach a mark associated with the first family;
generating forcing at least one second request originating from
an application of the second family, ~~transmitted~~ for
transmission over the network to the second unit and examining
said second request in the control layer to force the second
request as transmitted over the network not to include a mark
said mark being (Paragraph 41, 42, 43, see figure 1, 4).

The Applicants are not particularly clear as to how the Examiner is reading the teachings of Mi on the claim limitations of claim 6. If this rejection is maintained, the Examiner is asked to clearly identify which elements are being read on the first family, second family, second request, control layer, and mark.

Mi relates to the field of access control, and discloses a method for verifying a user identity by identifying the platform or device employed by the user when trying to obtain access. A system stores an object (401 on FIG. 4) and a processor identifier (403). A verification agent calculates from information embedded in a processor (e.g. processor number 422) a value that is compared (step 545 on FIG. 5) to the stored processor identifier (403). If the calculated value matches the stored processor identifier, the user is granted to access the object.

The Examiner has cited paragraphs 41-43 as being particularly relevant. Theses paragraphs describe that upon a request from a client, a server send to the client a signed Java applet containing a DLL file, the DLL file including a server identifier (step 520 on FIG. 5).

However, the cited sections of Mi fails to describe any mark associated with a family of applications, said family corresponding to a certain degree of confidence.

In re Application of De Boursetty et al.
Application No. 10/539,205
Response to Final Office Action of August 4, 2008

Therefore, since none of the cited document describe nor suggest any mark associated with a family of application, said family corresponding to a certain degree of confidence, Applicants assert that claims 6-11 and 17-19 are not obvious in view of Gong, Kandala and Mi, whether taken alone or in combination.

With regard to the claimed language, "A mark associated with a family of applications", marking data allows distinguishing the marked data among other data. The marking recited in the claims allows distinguishing the requests originating from applications of a determined family among requests originating from other applications. It does not matter how the marking is performed, provided that it allows identifying a marked request as a request associated with the second family of applications. Even if *arguendo* it is considered that any header equates to a marking, then even this interpretation fails, since this is not a marking associated with a determined family of applications.

Hence, for at least the above reasons, the combination of Gong, Kandala, and Mi fails to obviate claims 6-11 and 17-19 of the present application, and the Applicants respectfully request that this rejection be withdrawn from the application.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

/mark bergner/

Brian C. Rupp, Reg. No. 35,665
Mark Bergner, Reg. No. 45,877
DRINKER BIDDLE & REATH LLP
One of Attorneys for Applicant(s)
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698
(312) 569-1000 (telephone)
(312) 569-3000 (facsimile)
Customer No.: 08968

Date: November 4, 2008
CH01/ 25257190.1